IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.769 of 2006

Sanjay ... Petitioner

vs.

1. Secretary to Government,
Prohibition & Excise Department,
Fort St. George, Chennai-600 009.

2. The Commissioner of Police,
Greater Chennai. Chennai 8. .. Respondents

For Petitioner : Mr.M.Vijayakumar
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to call for the entire records pertaining to the impugned detention order vide Memo No.136/BDFGISV/06 dated 30.5.2006 passed by the second respondent and quash the same as illegal and consequently direct the second respondent to produce the detenu 'Sanjay' now lodged in Central Prison, Chennai before this Court and set him at liberty forthwith.

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 30.05.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, the learned counsel for the petitioner submitted that inasmuch as the Government confirmed the order of detention only on 18.07.2006 which is beyond the prescribed period, the detention order is liable to be quashed. We are unable to accept the said contention for the following reasons.

4. The detention order was passed on 30.05.2006 and the same was approved by the Government on 08.06.2006 i.e., within a period of 12 days as provided under Section 3(3) of the Tamil Nadu Act 14 of 1982.

5. Learned Additional Public Prosecutor by placing the records submitted that the Advisory Board submitted its report to the Government on 29.06.2006 and ultimately the Government confirmed the order of detention on 18.07.2006, which is within the prescribed period of 90 days as provided under proviso to Sub Section 2 of Section 3 of the said Act. In such circumstances, there is no flaw at any stage as claimed the learned counsel for the petitioner.

6. Learned counsel for the petitioner finally submitted that the family members of the detenu were not intimated regarding the passing of the detention order.

7. Learned Additional Public Prosecutor by placing the records submitted that one Linga, mother of the detenu was served a copy of the detention order on 31.05.2006, i.e. the next day after passing of the detention order. Accordingly, we reject the said contention also. Except the above said contention, no other ground is urged disputing the detention order. Consequently, this Habeas Corpus Petition fails and the same is dismissed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

Gms

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To

1. The Secretary to Government,
Prohibition & Excise Department,
Fort St. George, Chennai-600 009.

2. The Commissioner of Police,
Greater Chennai, Chennai 8.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government,
Public (Law and Order), Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc To Mr.M.Vijayakumar, Advocate, SR.45712.

HCP. No.No.769 of 2006

GV(CO)
RVL 10.10.2006

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